

## **Family Law FAQs**

### **1. How can I get a Dissolution of Marriage (Divorce) in Florida?**

In general one party needs to state that the marriage is "irretrievably broken." In other words it cannot be put back together through marriage counseling or any other means. Generally speaking, few people ever contest whether the marriage is irretrievably broken. Thus, in general you can get a divorce simply by asking for one, and there is little that your spouse can do about it.

The second requirement is that one party to the marriage must be a Florida resident for the six month period immediately preceding the filing of the petition for divorce. There is nothing else that you need to prove to get a divorce in Florida.

### **2. How long does a Divorce take in Florida, and does it matter who files first?**

It doesn't matter who files first. How long the case will take depends on whether it is contested or uncontested. An uncontested divorce means that both parties agree on absolutely everything such as child support, timesharing with minor children, division of property and debts and alimony, if any. An uncontested divorce can take as little as four to six weeks if all of the necessary paperwork is completed. If the matter is contested, (i.e. there are one or more issues which the Court has to decide, such as child support or alimony, etc.), then the case can take about 4-6 months or more to be heard. In the Florida counties where the Courts are extremely busy it can take a year or more.

### **3. What is a Contested Divorce?**

In a Contested Divorce, one of the parties is a Petitioner (the person who files for the divorce) and one of the parties is a Respondent. The parties have not reached an agreement as to the division of their property, responsibility for marital debts, or issues involving the children. Both parties must complete a Financial Affidavit and all other necessary forms. The Court may award Child Support or Alimony. The Petitioner MUST attend the final hearing or trial.

### **4. What is an Uncontested Divorce?**

In an Uncontested Divorce, one of the parties is a Petitioner (the person who files for the divorce) and one of the parties is a Respondent. Both parties have resolved all issues and must sign an agreement setting forth the division of their property, responsibility for marital debts, and issues involving the children. Both parties must complete a Financial Affidavit and all other necessary forms. The Petitioner MUST attend the final hearing.

### **5. What County do I file in?**

Florida has laws that govern which court your divorce will take place in. This is called venue (i.e. the county you should file your divorce in). The divorce must be filed where either the Petitioner or Respondent resides or where they last lived together as a married couple.

## **6. What is a petition?**

A petition is the pleading that begins the Divorce.

## **7. What issues will be addressed in a Divorce?**

Divorce proceedings address different issues depending on the couple's circumstances. These issues can involve division of marital assets and liabilities, alimony or spousal support, parental responsibility/custody, primary residence of the children, visitation, child support and attorney's fees.

## **8. How is Child Support Determined?**

In Florida, child support is among the few areas of divorce law that is determined according to strict statutory guidelines. In calculating child support, the court looks at the total available income of both spouses, then determines the percentage each spouse's share bears to the total income of the parents. The percentages are then multiplied by the child support guideline amount found in the schedules listed in Chapter 61, Florida Statutes, thereby determining the amount for which each spouse is responsible. In addition to basic child support, the court will also determine responsibility for medical and dental care, day care and for special expenses applicable to the couple's minor children.

## **9. When do I need a Paternity Order?**

In Florida, if the parents are married when a child is born, the husband is considered the legal father with all the rights and responsibilities of a legal parent. If an unmarried woman gives birth, legal paternity must be established.

## **10. Who brings the Paternity Action?**

Either the Mother or the Father may bring the Paternity action.

## **11. Why do I need to get Paternity established for my child?**

Establishing paternity will give your child the same rights and benefits as children born to married parents. These rights and benefits include:

- Legal proof of each parent's identity
- Information of family medical history in case of inherited health problems
- The father's name on the birth certificate.
- Medical or life insurance from either parent (if available)
- Financial support from both parents, including child support, Social Security, Veteran benefits and military allotments (if available), and inheritance rights.

**12. If we are not sure who the father is, how can we find out?**

As long as there is no legal father involved, either party can request a DNA test. This test will either exclude the person named as the father of the child, or give us a probability percentage of him being the father.